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10/656,611	09/05/2003	Jean-Yves Voghel	2688-1A	7991

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EXAMINER

BRAHAN, THOMAS J

ART UNIT PAPER NUMBER

3652

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/656,611

Applicant(s)

VOGHEL, JEAN-YVES

Examiner

Thomas J. Brahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). For example, the terms “a pick up arm”, “means for mounting a shaft”, “a shaft”, “an arbor assembly”, “an oil pump means”, “leg stand means” and “rectangular gripping means” are either not discussed in the Description Of The Preferred Embodiments section of the specification, or are discussed using different terminology. Appropriate correction is required.
2. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the oil pump means of claim 1, the leg stand rearwardly of the framework of claim 3, and the door of claim 4 must be shown, or the feature must be canceled from the claims. No new matter may be entered.
3. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The device being claimed does not correspond to the device disclosed in the specification. Also the specification contradicts itself. Line 8 of claim 1 recites that the oil pump means is mounted interiorly of the cylindrical mandrel. However this does not agree with the Description Of The Preferred Embodiments section of the specification. On page 4, lines 8 and 9 has the hydraulic motor driven by the hydraulic system of the tractor 12. Lines 12 and 13 of the same page contradicts this by stating that the electric motor and hydraulic reservoir are located in central portion (32) of the framework. The drawing figures show a empty mandrel (50), see figure 8.
5. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.
6. The following is a quotation of the sixth paragraph of 35 U.S.C. § 112:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.
7. Claims 1-7 are rejected under 35 U.S.C. § 112, second and sixth paragraphs, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. FOR EXAMPLE:
  - a. In claim 1, line 3, the limitation “such as to be carried over a ground surface by the vehicle” fails to positively recite the carrying feature.

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b. In claim 1, lines 5 and 6, it is unclear as to what structure the applicant is considering as "a pick up arm" and what structure applicant is considering as "means for mounting a shaft on each end of the pick up arms". Note that claim 7 recites that the pick up arm comprises the rectangular gripping means as to have the grasping mechanism (38) as specified as part of the pick up arm. This appears to have the grasping mechanism redundantly recited part of the pick up arm as well as a means for mounting a shaft. As the specification fails to include any of these claim terms, it is unclear as to what structures are attempted to be claimed.

c. In claim 1, lines 6 and 7, it is unclear as to what structure the applicant is considering as "a shaft" and how this is distinct from "an arbor assembly". These also appear be redundant recitations of the same element.

d. In claim 3, the term "leg stand means" renders the claims indefinite as it is unclear as to what similar elements would be a leg stand means. It is also an improper means-plus-function limitation, as per 35 U.S.C. § 112, sixth paragraph, as "leg stand" is not a function.

e. In claim 3, it is unclear as to how the applicant is considering the leg stand as positioned rearwardly of the framework (22). Anything that could be considered as a leg stand in the drawing figures is under the entire length of the framework, not rearwardly thereof.

f. In claim 7, the term "rectangular gripping means" renders the claims indefinite, as it could mean a rectangular device that grips an item, or a device that grips a rectangular item. As the limitation can be reasonably interpreted in two manners, the scope of the claim is unclear.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirement of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

9. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 1, as best understood, is rejected under 35 U.S.C. § 102(b) as being anticipated by Boyer. Boyer shows an apparatus comprising:

a framework (the back wall of frame housing 10) adapted for mounting engagement on a powered vehicle such as to be carried over a ground surface by the vehicle;

a pick up arm (15a and 15b) extending outwardly from the frame work at each end thereof;

means (77 and 78) for mounting a shaft (or arbor as applicant's distinction between and the arbor and an a

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shaft is unclear) on each of the pick up arms;

an arbor assembly (14/19) including a cylindrical mandrel (drum); and

a hydraulic system mounted at one end of the mandrel (see column 3, lines 12-15).

The intended use of the apparatus, laying sheet material, is not given any patentable weight, as this is an intended use type limitation, as only the preamble mentions the sheet material. Applicant's oil pump (?) in the mandrel (50) limitation has not been considered as such an arrangement is not supported by applicant's specification, as the specification has the pump of the tractor used, or a pump in storage means (32), and has the mandrel empty, see figure 8.

11. Claim 1 and 7, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Small. Small shows an apparatus comprising:

a framework (pivoting frames 46, see figures 3a-3c) adapted for mounting engagement on a powered vehicle such as to be carried over a ground surface by the vehicle;

a pick up arm (34 and 36) extending outwardly from the frame work at each end thereof;

means (77 and 78) for mounting a shaft (32) on each of the pick up arms;

an arbor assembly including a cylindrical mandrel (drum 66); and

a hydraulic system (147) mounted at one end of the mandrel.

The intended use of the apparatus, laying sheet material, is not given any patentable weight, as this is an intended use type limitation, as only the preamble mentions the sheet material. Applicant's pump (?) in the mandrel (50) limitation has not been considered as such an arrangement is not supported by applicant's specification, as the specification has the pump of the tractor used, or a pump in storage means (32), and has the mandrel empty, see figure 8. Gripping means (86) is rectangular, as recited in claim 7.

12. Claim 1 and 3, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Weberg. Weberg shows an apparatus comprising:

a framework (62/64) adapted for mounting engagement on a powered vehicle such as to be carried over a ground surface by the vehicle;

a pick up arm (30 and 32)) extending outwardly from the frame work at each end thereof;

means (130/132 and 114/116/120) for mounting a shaft on each of the pick up arms;

an arbor assembly (28) including a cylindrical mandrel (drum); and

a hydraulic system (34) mounted at one end of the mandrel.

Applicant's pump (?) in the mandrel (50) limitation has not been considered as such an arrangement is not supported by applicant's specification, as the specification has the pump of the tractor used, or a pump in storage means (32), and has the mandrel empty, see figure 8. A leg stand (20-26) supports the frame, as claim 3 is best understood.

13. Claim 1, as best understood, is rejected under 35 U.S.C. § 102(e) as being anticipated by Kaul et al. Kaul et al shows an apparatus comprising: a framework (62/64) adapted for mounting engagement on a powered vehicle such as to be carried over a ground surface by the vehicle; a pick up arm (30 and 32)) extending outwardly from the frame work at each end thereof; means (130/132 and 114/116/120) for mounting a shaft on each of the pick up arms;


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an arbor assembly (28) including a cylindrical mandrel (drum); and a hydraulic system (34) mounted at one end of the mandrel. Applicant's pump (?) in the mandrel (50) limitation has not been considered as such an arrangement is not supported by applicant's specification, as the specification has the pump of the tractor used, or a pump in storage means (32), and has the mandrel empty, see figure 8.

14. Claims 2 and 4-6, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kaul et al in view of Slutz. Kaul et al shows the basic claimed apparatus, as detailed above. Kaul et al shows a square motor housing mounted against a flat surface, as to be non-rotatably mounted, but varies from the claims by not having a clamp mounting. Slutz shows a similar mounting with a pivoted clamp (60). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the motor mounting arrangement of Kaul et al by using a pivoted clamp, as to have it easily attached and detached, as taught by Slutz. The cover (80) of Kaul et al is a removable door providing access to the storage area, as recited in claim 4. The storage area can include an electric motor drive mechanism, see column 3 lines 29-31, as recited in claim 5. Having a hydraulic reservoir for this drive mechanism, as recited in claim 6, would have been an obvious design consideration, as being a conventional hydraulic component.

15. Corderoy et al, Halbrook, Lammers et al, Andros et al and Vought are cited as showing related reeled devices.

16. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (571) 272-6928. The fax number for all patent applications is (703) 872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Thomas J. Brahan  
Primary Examiner  
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